

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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	:	
TRUSTEES OF THE MASON TENDERS	:	
DISTRICT COUNCIL WELFARE FUND,	:	
PENSION FUND, ANNUITY FUND, AND	:	22 Civ. 10055 (LGS)
TRAINING PROGRAM FUND, et al.,	:	
Plaintiffs,	:	<u>ORDER</u>
	:	
-against-	:	
	:	
AMM CONSTRUCTION, INC.,	:	
Defendant.	:	
	:	
-----X	:	

LORNA G. SCHOFIELD, District Judge:

WHEREAS, this action concerns a petition to confirm an arbitration award (the “Petition”).

WHEREAS, Respondent was served via the New York Secretary of State on December 13, 2022. Respondent was required to answer, move or otherwise respond to the Petition by January 3, 2023. *See* Fed. R. Civ. P. 12(a)(1)(A)(i).

WHEREAS, Petitioners filed a status letter on January 25, 2023, stating that they have spoken with Respondent’s principal regarding this lawsuit and served copies of the pleadings on it at all known addresses.

WHEREAS, Respondent has not appeared in this action.

WHEREAS, “default judgments in confirmation/vacatur proceedings are generally inappropriate.” *D.H. Blair & Co., Inc. v. Gottdiener*, 462 F.3d 95, 109 (2d Cir. 2006). Instead, a district court should treat an unanswered petition to confirm or vacate an arbitration award “as an unopposed motion for summary judgment.” *Id.* at 110; *accord Carroll v. Wells Fargo Clearing Servs., LLC*, No. 20 Civ. 4918, 2021 WL 634721, at \*2 (S.D.N.Y. Feb. 17, 2021). It is hereby


**ORDERED** that Petitioners shall brief their Petition as follows:

- By **March 24, 2023**, Petitioners shall file any memorandum of law in support of the Petition, not to exceed twenty pages;
- By **April 14, 2023**, Respondent may file any opposition to the Petition, not to exceed twenty pages; and
- By **April 21, 2023**, if Respondent filed an opposition, Petitioners may file a reply, not to exceed eight pages.

The parties shall comply with the Court's Individual Rules regarding motions. It is further

**ORDERED** that Petitioners shall serve a copy of this Order on Respondent at its 479 Amherst Avenue address via United States Postal Service, United Parcel Service or Federal Express, and file proof of service on the docket by **March 6, 2023**.

Dated: March 2, 2023  
New York, New York



**LORNA G. SCHOFIELD**  
**UNITED STATES DISTRICT JUDGE**